

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

Hollie L. Giampietro and
Albert Giampietro,

Plaintiffs,

v.

Joan M. Hargrove, Transcontinental
Refrigerated and TRL, Inc.,

Defendants.

:
:
:
:
:
:
:
:
:
:
:
:

Case No.:

NOTICE OF REMOVAL OF A CIVIL ACTION

TO THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Pursuant to 28 U.S.C. §§ 1441 and 1446, defendants Joan M. Hargrove, Transcontinental Refrigerated and TRL, Inc., by and through their counsel, hereby files the following Notice of Removal and requests the removal of this action from the Superior Court of the State of Delaware in and for New Castle County to the United States District Court for the District of Delaware, which is the judicial district in which the action is pending. Defendant intends to then file a motion to transfer venue to the United States District Court for the Eastern District of Pennsylvania where another action arising out of the same set of facts is now pending.

Defendants set forth the following as their grounds for removal of the action as follows:

1. The plaintiffs commenced this matter by filing a Complaint in the Superior Court of the State of Delaware in and for New Castle County on July 30, 2007, docketed as 07C-07-271-FSS. A copy of the complaint is attached hereto as Exhibit "A."

2. The filing of this Notice of Removal is timely in that (1) it is being filed within thirty (30) days after receipt by Defendants insurer, received August 8, 2007, which is the first filing and (2) it is being filed less than one year after the commencement of the action.

3. There is complete diversity of citizenship between the plaintiffs and the defendants in this case:

(a.) Plaintiff's Answers to Superior Court Form 30 Interrogatories states that both plaintiffs are residents of the State of Delaware. A copy of the Plaintiff's Answers to Superior Court Form 30 Interrogatories is attached hereto as Exhibit "B;"

(b.) Defendant, Joan M. Hargrove, upon information and belief, is an individual with a residence within Connecticut; and

(c.) Defendants, Transcontinental Refrigerated and TRL, Inc. and the same corporate entity which is incorporated in Pennsylvania with its principle place of business within the Commonwealth of Pennsylvania.

4. It is believed and therefore averred that the amount in controversy exceeds the jurisdictional limit of seventy-five thousand dollars (\$75,000.00), exclusive of interest and costs. The jurisdictional limit for an arbitration level case in the Superior Court of Delaware is at or below one hundred thousand dollars (\$100,000.00). Plaintiffs list the physical injuries to Ms. Giampietro as including, but not limited to "severe personal injuries to her head, neck, jaw, chest, pelvis, groin, left leg, back and other injuries, some or all of which may be permanent, pain and suffering, mental distress, and other damages." This alone likely exceeds the jurisdictional amount, but plaintiffs also seek damages for loss of consortium. (See Exhibit "A").

5. Moreover, the facts surrounding this accident which occurred on August 30, 2005 on Delaware Route 896 have given rise to an action already filed in the District Court for the Eastern District of Pennsylvania captioned “Michael Sutfin and Mary Jo Sutfin vs. Transcontinental Refrigerated Lines, TRL, Inc., and Joan Miles Hargrove” under Docket No.: 07-1834. (A copy of the Complaint in that matter is attached hereto as Exhibit “C”). Upon successful removal of this matter, Defendants will seek to file a motion to transfer venue to the Eastern District of Pennsylvania in order to consolidate the actions pursuant to 28 U.S.C § 1404(a) for the interests of judicial economy, in the interests of justice and the convenience of the parties.

6. Accordingly, this is an action “between citizens of different states” where “the matter is controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs,” for the purposes of 28 U.S.C. §§ 1332(a) and 1441(a).

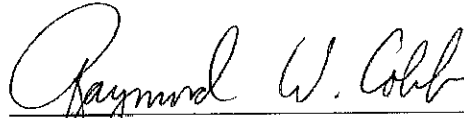
7. Removal of this case on the basis of diversity of jurisdiction is not precluded by the provisions of 28 U.S.C. § 1441(b) because the “none of the parties in interest properly joined and served as defendants is a citizen of “ the State of Delaware where the action was brought.

8. The Notice of Removal shall be promptly served upon all adverse parties to the action.

9. After the filing of the Notice of Removal, a certified copy will be promptly filed with the Prothonotary of the Superior Court of Delaware in and for New Castle County in accordance with 28 U.S.C. § 1446(d).

WHEREFORE, Defendants request that this action be removed from the Delaware Superior Court in and for the County of New Castle to the United States District Court for the District of Delaware.

Respectfully submitted,
RAYMOND W. COBB, LLC

A handwritten signature in cursive script, reading "Raymond W. Cobb", written over a horizontal line.

Raymond W. Cobb (ID No. 2653)
1001 North Jefferson Street
Suite 208
Wilmington, DE 19801
(302) 777-4100

Attorney for Defendants,
Joan M. Hargrove, Transcontinental
Refrigerated, and TRL, Inc.

Dated: September 6, 2007

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

HOLLIE GIAMPIETRO and
ALBERT GIAMPIETRO,

Plaintiffs,

vs.

JOAN MILES HARGROVE,
TRANSCONTINENTAL
REFRIGERATED, and TRL, INC.,

Defendants.

C.A. No.: 07C-07-271 FSS

ARBITRATION CASE

JURY TRIAL OF 12 DEMANDED

TO: OFFICE OF THE PROTHONTARY

PLEASE TAKE NOTICE that Defendants, Joan Miles Hargrove, Transcontinental Refrigerated, and TRL, Inc., by and through their counsel, have filed a Petition for Removal of this action to the United States District Court for the District of Delaware. A true copy of the Petition for Removal is attached hereto as Exhibit A.

Be further advised that the Defendants, on filing such Petition for Removal with the Office of the Clerk of the United States District Court for he District of Delaware, filed a copy

with the Prothonotary of the Superior Court for the State of Delaware, of and for New Castle County, and notified all adverse parties to effect removal pursuant to 28 U.S.C. § 1446(b).

Respectfully submitted,
RAYMOND W. COBB, LLC

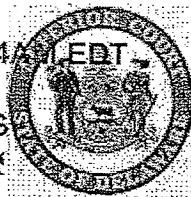
A handwritten signature in cursive script, reading "Raymond W. Cobb", written in black ink.

Raymond W. Cobb (ID No. 2653)
1001 North Jefferson Street
Suite 208
Wilmington, DE 19801
(302) 777-4100

Attorney for Defendants,
Joan M. Hargrove, Transcontinental
Refrigerated, and TRL, Inc.

Dated: September 6, 2007

EFiled: Jul 30 2007 11:54 AM EDT
Transaction ID 15753904
Case No. 07C-07-271 FSS



SUPERIOR COURT CIVIL CASE INFORMATION STATEMENT (CIS)

COUNTY: (New Castle) Kent Sussex

CIVIL ACTION NUMBER: _____

CIVIL CASE CODE: CPIA

CIVIL CASE TYPE: Personal Injury Auto

Caption:

HOLLIE L. & ALBERT GIAMPIETRO

V

JOAN MILES HARGROVE,
TRANSCONTINENTAL REFRIGERATED, and
T.R.L., INC.

Name & Status of Party Filing Document:
GIAMPIETRO, PLAINTIFFS

Document Type: COMPLAINT

Non-Arbitration _____ eFile X

(CERTIFICATE OF VALUE MAY BE REQUIRED)

Arbitration: X Mediation _____ Neutral Assessment _____

DEFENDANT (CIRCLE ONE) ACCEPT REJECT

Jury Demand: _____ Yes X No

Track Assignment Requested:

EXPEDITED (STANDARD) COMPLEX

Attorney Name(s): William R. Peltz, Esquire

Firm Name(s): Kimmel, Carter, Roman & Peltz

Office Address:

200 Biddle Avenue, Suite 101
Springside Plaza
Newark, Delaware 19702

Telephone Number: (302) 392-5277

Fax Number: (302) 392-0800

E-Mail Address: wrpeltz@kcrlaw.com

Identify Any Related Cases Now Pending in the Superior
Court by Caption and Civil Action Number Including
Judge's Initials:

None

Explain the Relationship(s): Not applicable

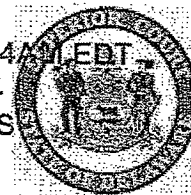
Other Unusual Issues that Affect Case Management: None

THE PROTHONOTARY WILL NOT PROCESS THE COMPLAINT, ANSWER, OR FIRST RESPONSIVE PLEADING IN THIS MATTER FOR SERVICE UNTIL THE CASE INFORMATION STATEMENT (CIS) IS FILED. THE FAILURE TO FILE THE CIS AND TO HAVE THE PLEADING PROCESSED FOR SERVICE MAY RESULT IN THE DISMISSAL OF THE COMPLAINT OR MAY RESULT IN THE ANSWER OR FIRST RESPONSIVE PLEADING BEING STRICKEN.

EFiled: Jul 30 2007 11:54

Transaction ID 15753904

Case No. 07C-07-271 FSS



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

HOLLIE L. GIAMPIETRO and
ALBERT GIAMPIETRO,

Plaintiffs,

V.

JOAN MILES HARGROVE,
TRANSCONTINENTAL
REFRIGERATED, and T.R.L., INC.,

Defendants.

.....

C. A. No. _____

ARBITRATION CASE

PRAECIPE

PLEASE ISSUE SUMMONS, Complaint, and Plaintiff's Answers to Superior

Court Form 30 Interrogatories pursuant to Rule 3(a) to the defendants as follows:

- Joan Miles Hargrove at 293 Glen Street, Second Floor, New Britain, Connecticut 06051 through the Secretary of State pursuant to 10 Del. C. §3112;
- Transcontinental Refrigerated at 130 Armstrong Road, Pittston, Pennsylvania 18640 through the Secretary of State pursuant to 10 Del. C. §3112;
- T.R.L., Inc. through its registered agent, The Corporation Trust Company, at Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

/s/ William R. Peltz

WILLIAM R. PELTZ, ESQUIRE

Bar ID: 2675

Kimmel, Carter, Roman & Peltz

200 Biddle Avenue, Suite 101

Springside Plaza

Newark, Delaware 19702

(302) 392-5277

Attorney for Plaintiffs

DATE: July 30, 2007

EFiled: Jul 30 2007 11:54 AM EDT
Transaction ID 15753904
Case No. 07C-07-271 FSS



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

HOLLIE L. GIAMPIETRO and
ALBERT GIAMPIETRO,

Plaintiffs,

V.

JOAN MILES HARGROVE,
TRANSCONTINENTAL
REFRIGERATED, and T.R.L., INC.,

Defendants.

C. A. No.

ARBITRATION CASE

THE STATE OF DELAWARE,

TO THE SHERIFF OF KENT COUNTY:

YOU ARE COMMANDED:

To summon the above named defendant so that, within 20 days after service hereof upon defendant, exclusive of the day of service, defendant shall serve upon William R. Peltz, plaintiffs' attorney, whose address is 200 Biddle Avenue, Suite 101, Springside Plaza, Newark, DE 19702, an answer to the complaint (and, if an affidavit of demand has been filed, an affidavit of defense).

To serve upon defendant a copy hereof and of the complaint (and of the affidavit of demand if any has been filed by plaintiffs).

Dated: 07/30/07

SHARON AGNEW

Prothonotary

Per Deputy

TO THE ABOVE NAMED DEFENDANT:

In case of your failure, within 20 days after service hereof upon you, exclusive of the day of service, to serve on plaintiff's attorney named above an answer to the complaint (and, if an affidavit of demand has been filed, an affidavit of defense), judgment by default will be rendered against you for the relief demanded in the complaint (or in the affidavit of demand, if any).

SHARON AGNEW

Prothonotary

Per Deputy

EFiled: Jul 30 2007 11:54 AM EDT
Transaction ID 15753904
Case No. 07C-07-271 FSS



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

HOLLIE L. GIAMPIETRO and
ALBERT GIAMPIETRO,

Plaintiffs,

V.

JOAN MILES HARGROVE,
TRANSCONTINENTAL
REFRIGERATED, and T.R.L., INC.,

Defendants.

C. A. No.

ARBITRATION CASE

THE STATE OF DELAWARE,
TO THE SHERIFF OF KENT COUNTY:
YOU ARE COMMANDED:

To summon the above named defendant so that, within 20 days after service hereof upon defendant, exclusive of the day of service, defendant shall serve upon William R. Peltz, plaintiffs' attorney, whose address is 200 Biddle Avenue, Suite 101, Springside Plaza, Newark, DE 19702, an answer to the complaint (and, if an affidavit of demand has been filed, an affidavit of defense).

To serve upon defendant a copy hereof and of the complaint (and of the affidavit of demand if any has been filed by plaintiffs).

Dated: 07/30/07

SHARON AGNEW
Prothonotary

Per Deputy

TO THE ABOVE NAMED DEFENDANT:

In case of your failure, within 20 days after service hereof upon you, exclusive of the day of service, to serve on plaintiff's attorney named above an answer to the complaint (and, if an affidavit of demand has been filed, an affidavit of defense), judgment by default will be rendered against you for the relief demanded in the complaint (or in the affidavit of demand, if any).

SHARON AGNEW
Prothonotary

Per Deputy

EFiled: Jul 30 2007 11:54
Transaction ID 15753904
Case No. 07C-07-271 FSS



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

HOLLIE L. GIAMPIETRO and
ALBERT GIAMPIETRO,

Plaintiffs,

V.

JOAN MILES HARGROVE,
TRANSCONTINENTAL
REFRIGERATED, and T.R.L., INC.,

Defendants.

C. A. No.

ARBITRATION CASE

THE STATE OF DELAWARE,
TO THE SHERIFF OF NEW CASTLE COUNTY:
YOU ARE COMMANDED:

To summon the above named defendant so that, within 20 days after service hereof upon defendant, exclusive of the day of service, defendant shall serve upon William R. Peltz, plaintiffs' attorney, whose address is 200 Biddle Avenue, Suite 101, Springside Plaza, Newark, DE 19702, an answer to the complaint (and, if an affidavit of demand has been filed, an affidavit of defense).

To serve upon defendant a copy hereof and of the complaint (and of the affidavit of demand if any has been filed by plaintiffs).

Dated: 07/30/07

SHARON AGNEW
Prothonotary

Per Deputy

TO THE ABOVE NAMED DEFENDANT:

In case of your failure, within 20 days after service hereof upon you, exclusive of the day of service, to serve on plaintiffs attorney named above an answer to the complaint (and, if an affidavit of demand has been filed, an affidavit of defense), judgment by default will be rendered against you for the relief demanded in the complaint (or in the affidavit of demand, if any).

SHARON AGNEW
Prothonotary

Per Deputy

EFiled: Jul 30 2007 11:54 AM EDT
Transaction ID 15753904
Case No. 07C-07-271 FSS



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

HOLLIE L. GIAMPIETRO and
ALBERT GIAMPIETRO,

Plaintiffs,

V.

JOAN MILES HARGROVE,
TRANSCONTINENTAL
REFRIGERATED, and T.R.L., INC.,

Defendants.

C. A. No.

ARBITRATION CASE

COMPLAINT

1. On 8/30/05 at approximately 1:30 p.m the female plaintiff was stopped for traffic on Delaware Route 896 in Newark, New Castle County, Delaware when suddenly a tractor trailer operated by the individual defendant, as the agent, servant, representative, and/or employee of the corporate defendants, rear-ended the female plaintiff's vehicle resulting in severe personal injuries to her. Pursuant to 10 Del. C. §3916, the defendants are notified that if they deny agency that denial must be in the form of an affidavit attached to the answer to the complaint.

2. The individual defendant was negligent in a manner proximately causing the accident in that she:

- a. Failed to keep a proper lookout;
- b. Failed to maintain proper control over the vehicle she was operating;
- c. Operated her vehicle in a careless or inattentive manner in violation of 21 Del. C. §4176;

d. Operated her vehicle at an unsafe speed in violation of 21 Del. C.

§4168;

e. Followed the female plaintiff's vehicle more closely than was reasonably prudent in violation of 21 Del. C. §4123.

3. The aforesaid conduct of the individual defendant is imputed to the corporate defendants since the former was operating her vehicle as the agent, servant, representative, and/or employee of the latter and pursuing the corporate defendants' business at the time of the aforesaid accident. Pursuant to 10 Del. C. §3916, the defendants are notified that if they deny agency that denial must be in the form of an affidavit attached to the answer to the complaint.

4. As a result of the aforesaid conduct of the defendants, the female plaintiff sustained severe personal injuries to her head, neck, jaw, chest, pelvis, groin, left leg, back, and other injuries, some or all of which may be permanent, pain and suffering, mental distress, and other damages.

5. As a further result of the aforesaid conduct of the defendants, the male plaintiff, the husband of the female plaintiff, sustained a loss of his wife's consortium.

WHEREFORE, the plaintiffs demand judgment against the defendants, jointly and severally, for their general and special damages, in an amount to be determined, plus costs and interest.

/s/ William R. Peltz

WILLIAM R. PELTZ, ESQUIRE

Bar ID: 2675

Kimmel, Carter, Roman & Peltz

200 Biddle Avenue, Suite 101

Springside Plaza

Newark, Delaware 19702

(302) 392-5277

Attorney for Plaintiffs

EFiled: Jul 30 2007 11:54 AM EDT
Transaction ID 15753904
Case No. 07C-07-271 FSS



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

HOLLIE L. GIAMPIETRO and
ALBERT GIAMPIETRO,

Plaintiffs,

V.

JOAN MILES HARGROVE,
TRANSCONTINENTAL
REFRIGERATED, and T.R.L., INC.,

Defendants.

C. A. No.

ARBITRATION CASE

**ANSWERS TO SUPERIOR COURT
FORM 30 INTERROGATORIES**

1. Give the names and present or last known residential and employment address and telephone number of each eyewitness to the incident, which is the subject of litigation.

ANSWER: The female plaintiff; the individual defendant; Michael Sutcliff, 22075 Camp Drive, Millsboro, Delaware 19966 (see police report); other possible unknown eyewitnesses.

2. Give the names and present or last known residential and employment address and telephone number of each person who has knowledge of the facts relating to the litigation.

ANSWER: See the answer to #1 above; the male plaintiff; representatives of the corporate defendant; Christiana Hospital emergency room personnel;

Ronald M. Goodman, D.O./Total Care Physicians personnel; Ian Weiner, M.D. (PIP DME); plaintiffs' friends and relatives.

3. Give the names of all persons who have been interviewed in connection with the above litigation, including the names and present or last known residential and employment addresses and telephone numbers of the person who made said interviews and the names and present or last known residential and employment addresses and telephone numbers of persons who have the original and copies of the interview.

ANSWER: See the police report.

4. Identify all photographs, diagrams or other representations made in connection with the matter in litigation giving the name and present or last known residential and employment address and telephone number of the person having the original and copies thereof. (In lieu thereof, a copy can be attached.)

ANSWER: See the police report.

5. Give the name, professional address and telephone number of all expert witnesses presently retained by the party together with the dates of any written opinions prepared by said expert. If an expert is not presently retained, describe by type the experts whom the party expects to retain in connection with the litigation.

ANSWER: See those physicians listed in answer #2 above.

6. Give a brief description of any insurance policy, including excess coverage, that is or may be applicable to the litigation, including:

- a. the name and address of all companies insuring the risk;
- b. the policy number;
- c. the type of insurance;
- d. the amount of primary, secondary, and excess coverage.

ANSWER: Plaintiff has PIP coverage through Progressive Insurance Company, 121 Continental Drive, Suite 208, Newark, Delaware 19713; claim no. 056590804.

7. Give the name, professional address, and telephone number of all physicians, chiropractors, psychologists, and physical therapists who have examined or treated you at any time during the ten year period immediately prior to the date of the incident at issue in this litigation.

ANSWER: To be provided.

/s/ William R. Peltz

WILLIAM R. PELTZ, ESQUIRE
Bar ID: 2675
Kimmel, Carter, Roman & Peltz
200 Biddle Avenue, Suite 101
Springside Plaza
Newark, Delaware 19702
(302) 392-5277
Attorney for Plaintiffs

SUMMONS IN A CIVIL ACTION

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MICHAEL SUTFIN and MARY JO SUTFIN

v.

TRANSCONTINENTAL REFRIGERATED LINES, INC.;
TRL, INC. and JOAN MILES HARGROVE

CIVIL ACTION NO. 07-1834

TO: (NAME AND ADDRESS OF
DEFENDANT)

YOU ARE HEREBY SUMMONED and required to serve upon

Plaintiff's Attorney (Name and Address)

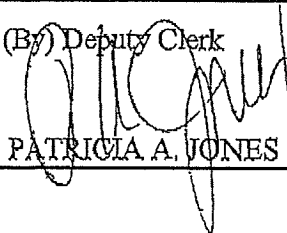
Michael J. Olley, Esq.
718 Two Bala Plaza
Bala Cynwyd, PA 19004

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

Michael E. Kunz, Clerk of Court

Date: 5/7/07

(By) Deputy Clerk


PATRICIA A. JONES

AO 440 (Rev. 8/01) Summons in a Civil Action

RETURN OF SERVICE

Service of the Summons and complaint was made by me ⁽¹⁾	DATE
NAME OF SERVER (PRINT)	TITLE

Check one box below to indicate appropriate method of service

- ☐ Served personally upon the defendant. Place where served: _____
- ☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.
Name of person with whom the summons and complaint were left: _____
- ☐ Returned unexecuted: _____
- ☐ Other (specify): _____

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL
--------	----------	-------

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on _____ Date _____ Signature of Server _____

Address of Server _____

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

SUMMONS IN A CIVIL ACTION

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MICHAEL SUTFIN and MARY JO SUTFIN

v.

TRANSCONTINENTAL REFRIGERATED LINES, INC.;
TRL, INC. and JOAN MILES HARGROVE

CIVIL ACTION NO. 07-1834

TO: (NAME AND ADDRESS OF
DEFENDANT)

YOU ARE HEREBY SUMMONED and required to serve upon

Plaintiff's Attorney (Name and Address)

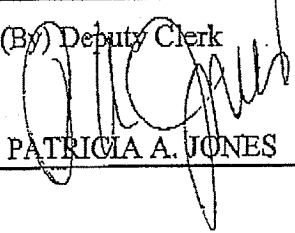
Michael J. Olley, Esq.
718 Two Bala Plaza
Bala Cynwyd, PA 19004

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

Michael E. Kunz, Clerk of Court

Date: 5/7/07

(By) Deputy Clerk


PATRICIA A. JONES

AO 440 (Rev. 8/01) Summons in a Civil Action

RETURN OF SERVICE		
Service of the Summons and complaint was made by me ⁽¹⁾	DATE	
NAME OF SERVER (PRINT)	TITLE	
<i>Check one box below to indicate appropriate method of service</i>		
<input type="checkbox"/> Served personally upon the defendant. Place where served: _____ _____		
<input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left: _____ _____		
<input type="checkbox"/> Returned unexecuted: _____ _____ _____		
<input type="checkbox"/> Other (specify): _____ _____ _____		
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL
DECLARATION OF SERVER		
<p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <p>Executed on _____ Date _____ Signature of Server _____</p> <p style="text-align: center;">_____ Address of Server</p>		

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

JF

COFFEY KAYE MYERS & OLLEY
BY: MICHAEL J. OLLEY, ESQUIRE
IDENTIFICATION NO. 56118
TWO BALA PLAZA, SUITE 718
BALA CYNWYD, PA 19004
610-668-9800

ATTORNEY(S) FOR: PLAINTIFF

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MICHAEL SUTFIN and MARY JO SUTFIN

vs.

TRANSCONTINENTAL REFRIGERATED LINES,
INC.

and

TRL, INC.

and

JOAN MILES HARGROVE

CIVIL ACTION

JURY TRIAL DEMANDED

NO.: 07 1834

COMPLAINT

1. Plaintiffs, Michael Sutfin and Mary Jo Sutfin, are individual citizens and residents of the State of Delaware, residing therein at 22075 Camp Drive, Millsboro.
2. Defendant, Transcontinental Refrigerated Lines, Inc. is a corporation duly organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania with its principal place of business located at 130 Armstrong Road, Pittston, PA.
3. Defendant, TRL, Inc. is a corporation duly organized and existing under any by virtue of the laws of the Commonwealth of Pennsylvania with its principal place of business located at 130 Armstrong Road, Pittston, PA.
4. Defendant, Joan Miles Hargrove, is an individual citizen and resident of the State of Connecticut, residing therein at 293 Glen Street, 2nd Floor, New Britain.

5. Jurisdiction is founded upon diversity of citizenship and the amount in controversy is in excess of One Hundred Fifty Thousand Dollars (\$150,000.00), exclusive of costs and interest.

6. At all times material hereto defendant Joan Miles Hargrove was the agent, servant, workmen and/or employee of defendants Transcontinental Refrigerated Lines, Inc. and/or TRL, Inc.

7. At all times material hereto Transcontinental Refrigerated Lines, Inc. and TRL, Inc. were the agent, servant, workmen, current corporation of and/or subsidiary of the other.

8. At all times material hereto, the defendants owned a certain tractor and trailer believed to be operating with the license plate Pennsylvania AF07765.

9. At all times material hereto, the defendants possessed a certain tractor and trailer believed to be operating with the license plate Pennsylvania AF07765.

10. At all times material hereto, the defendants controlled a certain tractor and trailer believed to be operating with the license plate Pennsylvania AF07765.

11. At all times material hereto, the defendants leased a certain tractor and trailer believed to be operating with the license plate Pennsylvania AF07765.

12. At all times material hereto, the defendants operated a certain tractor and trailer believed to be operating with the license plate Pennsylvania AF07765.

13. On or about August 30, 2005, at or about 1:30 p.m., wife-plaintiff was a passenger in an automobile being operated by her husband.

14. On the aforementioned date, and at the aforementioned time, said vehicle was in a line of traffic for a red traffic light northbound on Route 896, at its intersection with Route 40, Bear, DE.

15. On the aforementioned date, and at the aforementioned time, another automobile was stopped behind the plaintiffs' automobile.

22. As a result of the accident herein referred to, plaintiff has suffered a loss and impairment of earnings and earning power and will suffer the same for an indefinite time in the future; has undergone great physical pain and mental anguish and will undergo the same for an indefinite time in the future; has been obliged to and will have to continue to expend large sums of money in the future in an effort to effect a cure of her aforesaid injuries and has been unable to attend to the same for an indefinite time in the future, all to her great detriment and loss.

23. Plaintiff is entitled to recover all damages consistent with the law, financial responsibility and other appropriate statutes.

24. As a result of the aforesaid, plaintiff's motor vehicle sustained serious damage.

SECOND COUNT- MICHAEL SUTFIN vs. TRANSCONTINENTAL REFRIGERATED LINES,
INC. and TRL INC. and JOAN MILES HARGROVE

25. As a result of the injuries sustained by wife-plaintiff as aforesaid, husband-plaintiff has been deprived of the society, companionship and consortium of his wife-plaintiff herein, and he will be deprived of the same for an indefinite time in the future, to his great detriment and loss.

26. As a result of the aforesaid, plaintiff's motor vehicle sustained serious damage.

WHEREFORE, plaintiffs demand judgment against the defendants, jointly and severally, for a sum in excess of One Hundred Fifty Thousand Dollars (\$150,000.00).

COFFEY KAYE MYERS & OLLEY


MICHAEL J. OLLEY
Counsel for Plaintiffs

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS HOLLIE L. GIAMPIETRO AND ALBERT GIAMPIETRO	DEFENDANTS JOAN M. HARGROVE, TRANSCONTINENTAL REFRIGERATED AND TRL, INC.
(b) County of Residence of First Listed Plaintiff <u>SUSSEX</u> (EXCEPT IN U.S. PLAINTIFF CASES)	County of Residence of First Listed Defendant _____ (IN U.S. PLAINTIFF CASES ONLY)
(c) Attorney's (Firm Name, Address, and Telephone Number) <u>WM. R. PELTZ</u> <u>KIMMEL, CARTER, ROMAN & PELTZ</u> <u>300 BIDDLE AVE., NEWARK, DE 19702</u> <u>(302) 392-5277</u>	Attorneys (If Known) <u>RAYMOND W. COBB</u> <u>1001 N. JEFFERSON STREET</u> <u>WILMINGTON, DE 19801</u> <u>(302) 777-4100</u>

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)	III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)																								
<input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> <tr> <td>Citizen of This State</td> <td><input checked="" type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input checked="" type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="checkbox"/> 5</td> <td><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input checked="" type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	PTF	DEF		PTF	DEF																				
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
Citizen of Another State	<input type="checkbox"/> 2	<input checked="" type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

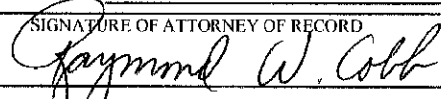
IV. NATURE OF SUIT (Place an "X" in One Box Only)					
CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition

V. ORIGIN (Place an "X" in One Box Only)							
<input type="checkbox"/> 1 Original Proceeding	<input checked="" type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment	

VI. CAUSE OF ACTION	Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): _____ Brief description of cause: _____
----------------------------	---

VII. REQUESTED IN COMPLAINT:	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$ _____	CHECK YES only if demanded in complaint: JURY DEMAND: <input type="checkbox"/> Yes <input type="checkbox"/> No
-------------------------------------	--	------------------------	--

VIII. RELATED CASE(S) IF ANY	(See instructions): JUDGE _____	DOCKET NUMBER _____
-------------------------------------	---------------------------------	---------------------

DATE <u>9/6/2007</u>	SIGNATURE OF ATTORNEY OF RECORD 
----------------------	---

RECEIPT # _____	AMOUNT _____	APPLYING IFP _____	JUDGE _____	MAG. JUDGE _____
-----------------	--------------	--------------------	-------------	------------------

AO FORM 85 RECEIPT (REV. 9/04)

United States District Court for the District of Delaware

Civil Action No. 07-535

ACKNOWLEDGMENT
OF RECEIPT FOR AO FORM 85

NOTICE OF AVAILABILITY OF A
UNITED STATES MAGISTRATE JUDGE
TO EXERCISE JURISDICTION

I HEREBY ACKNOWLEDGE RECEIPT OF 2 COPIES OF AO FORM 85.

9/6/07
(Date forms issued)

x Raymond W. Cobb
(Signature of Party or their Representative)

x RAYMOND W. COBB
(Printed name of Party or their Representative)

Note: Completed receipt will be filed in the Civil Action